BANK INDONESIA

BANK INDONESIA REGULATION
NUMBER: 10/7/PBI/2008
CONCERNING
NON-BANK CORPORATE FOREIGN BORROWINGS

BY THE GRACE OF THE ALMIGHTY GOD

THE GOVERNOR OF BANK INDONESIA,

Considering :
a. whereas foreign debt is an important factor with both positive and negative influence on the balance of payments, monetary stability and sustainability of development;
b. whereas to mitigate negative impact as referred to in the above letter a, it is necessary for foreign debt to be managed in keeping with prudential principles and the national economic interest and to maintain the confidence of international financial markets;
c. now therefore in regard to the considerations referred to in letter a and letter b, it is deemed necessary to enact regulatory provisions concerning non-bank corporate foreign borrowings in a Bank Indonesia Regulation;

In view of :
1. Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3843) as amended by Act Number 3 of 2004 (State Gazette of the Republic of Indonesia Number 7 of 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4357);

2. Act ...

2. Act Number 24 of 1999 concerning Foreign Exchange Flows and the Exchange Rate System (State Gazette of the Republic of Indonesia Number 67 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3844);

HAS DECREED:

To enact: THE BANK INDONESIA REGULATION CONCERNING NON-BANK CORPORATE FOREIGN BORROWINGS.

CHAPTER I
GENERAL PROVISIONS
Article 1

The terminology used in this Bank Indonesia Regulation has the following meanings:

1. “Non-Bank Corporate Foreign Borrowings,” hereinafter referred to as Corporate Foreign Borrowings, are defined as all corporate borrowings from non-residents in foreign currency or in rupiahs, securities issued by companies in foreign currencies and other liabilities to non-residents in foreign currency and in rupiahs, also including such borrowings on the basis of sharia principles.
2. “Sharia principles” are principles based on Islamic teachings as determined by the National Sharia Council of the Indonesian Council of Islamic Scholars (MUI).
3. “Non-Bank Company,” hereinafter referred to as Company, is a:
   a. State Owned Enterprise (SOE);
   b. Regional Government Enterprise (SOE);
   c. Private Company encompassing the following:

1) Public ...

1) Public Company;
2) Share Issuer;
3) Foreign Investment Company;
4) Other Private Company with assets or gross sales during 1 (one) year of at least Rp 100,000,000,000.00 (one hundred billion rupiahs).

4. “State Owned Enterprise,” hereinafter referred to as SOE, is an enterprise as stipulated in the applicable laws and regulations concerning State Owned Enterprises.
5. “Regional Government Enterprise” is an enterprise as stipulated in the applicable laws and regulations concerning Regional Government Enterprises.
6. “Public Company” is a shareholder-owned company with a specified number of shareholders and amount of paid up capital as stipulated in the applicable laws and regulations concerning the Capital Market.
7. “Share Issuer” is any party having conducted a public offering as stipulated in the applicable laws and regulations concerning the Capital Market.
8. “Foreign Investment Company” is any company in which the proportion of shares held by Non-Residents is at least 10% (ten percent).
9. “Non-Resident” is any natural or legal person or other entity not domiciled in Indonesia or not intending to take up domicile in Indonesia.
10. “Creditor” or “provider of funds” is any natural or legal person or other entity extending loans or provision of funds or equivalent to a company for a specified term at agreed terms and conditions.
11. “Short-Term Corporate Foreign Borrowings” are Corporate Foreign Borrowings with maturities of up to 1 (one) year, whether directly from creditors or financial markets or indirectly through other affiliated or non-affiliated parties.
12. “Long-Term Corporate Foreign Borrowings” are Corporate Foreign Borrowings with maturities of more than 1 (one) year, whether directly from

creditors ...

creditors or financial markets or indirectly through other affiliated or non-affiliated parties.

13. "Other Affiliated Parties" are Other Parties with ownership or stock interest of at least 10% (ten percent) in a Company or part of the same group.
14. "Other Non-Affiliated Parties" are Other Parties without ownership or stock interests or with ownership or stock interest of less than 10% (ten percent) in a Company or not part of the same group.
15. "Year" is the calendar year commencing in January and ending in December.
16. "Issuance of Debt Securities in a Public Offering" is the issuance of debt securities, whether registered or unregistered on the stock exchange, as stipulated in the applicable laws and regulations concerning the Capital Market.
17. "Issuance of Debt Securities in Private Placement" is the issuance of debt securities other than in a public offering as stipulated in the applicable laws and regulations concerning the Capital Market.

CHAPTER II
SCOPE
Article 2

Companies shall enter into Short-Term Corporate Foreign Borrowings and Long-Term Corporate Foreign Borrowings in compliance with the applicable laws and regulations.

Article 3

Corporate Foreign Borrowings consist of the following:

1. Borrowings in rupiahs and in foreign currencies based on Loan Agreements with Non-Residents.

2. Debt ...

2. Debt securities in foreign currencies issued on the international financial market in a public offering.
3. Debt securities in rupiahs and in foreign currencies issued in private placement to Non-Residents.
4. Debt securities in foreign currencies issued on the domestic financial market in a public offering.
5. Debt securities in foreign currencies issued in private placement to residents.
6. Other liabilities to Non-Residents, whether in foreign currencies or in rupiahs, not included in Corporate Foreign Borrowings as referred to in number 1 to number 5.

CHAPTER III
PRUDENTIAL PRINCIPLES FOR CORPORATE FOREIGN BORROWINGS
Article 4

Companies intending to enter into short-term or long-term Corporate Foreign Borrowings must implement a Risk Management function encompassing:

a. Market Risk;
b. Credit Risk;
c. Liquidity Risk.

Article 5

(1). Any Company intending to enter into Long-Term Corporate Foreign Borrowings must have a rating issued by a national or international rating agency.

(2). The provision referred to in paragraph (1) shall not apply to Foreign Borrowings by:

a. A Private Company directly from a holding company (shareholder);

b. SOEs ...

b. SOEs and Regional Government Enterprises with assets or gross sales during 1 year of at least Rp 100,000,000,000.00 (one hundred billion rupiahs).

CHAPTER IV
REPORTING REQUIREMENTS
Article 6

(1). Any company intending to enter into a Long-Term Corporate Foreign Borrowing shall submit accurate and complete reports to Bank Indonesia with the following information:

a. Financial ratios;
b. Financial statement;
c. Rating;
d. Corporate Foreign Borrowing Plan for 1 (one) year; and
e. Corporate risk management analysis.

(2). Companies holding Short-Term and/or Long-Term Corporate Foreign Borrowing positions shall submit accurate and complete reports to Bank Indonesia on the following:

a. Financial ratios; and
b. Financial statement.

Article 7

(1) The reports referred to in Article 6 paragraph (1) letter a and letter b and paragraph (2) letter a and letter b shall be submitted every 6 (six) months (semi-annually), i.e. no later than the 10th day of April and the 10th day of September or the subsequent working day if that date falls on a Saturday, Sunday or public holiday.

(2) The ...

(2) The reports referred to in Article 6 paragraph (1) letter c, letter d and letter e shall be submitted no later than the 10th day of March in the relevant year or the subsequent working day if that date falls on a Saturday, Sunday or public holiday.

Article 8

(1) In the event of amendment to a Long-Term Corporate Foreign Borrowing plan and/or amendment to a corporate risk management analysis as referred to in Article 6 paragraph (1) letter d and letter e, the Company shall inform Bank Indonesia of the change.

(2) Report of amendment to a Long-Term Corporate Foreign Borrowing plan and/or amendment to corporate risk management analysis as referred to in Article 6 paragraph (1) shall be submitted no later than the 1st day of July in the relevant year or the subsequent working day if that date falls on a Saturday, Sunday or public holiday.

Article 9

A Company shall be deemed not to have submitted a report as referred to in Article 6 and Article 8 paragraph (1) if the report is not received by Bank Indonesia within 30 (thirty) days after the prescribed deadline stipulated in Article 7 and Article 8 paragraph (2) and/or the report is received by Bank Indonesia within the deadline but is not complete as stipulated in Article 6.

Article 10

The reports referred to in Article 6 and Article 8 paragraph (1) shall be confidential.

Article 11 ....

Article 11

The Board of Directors of a Company shall bear responsibility for the truthfulness of reports submitted to Bank Indonesia as referred to in Article 6 and Article 8 paragraph (1).

CHAPTER V

SANCTIONS

Article 12

(1) Any company late in submission of a report as referred to in Article 7 and Article 8 paragraph (2) shall be liable to administrative sanctions in the form of written warning.

(2) Any Company failing to submit a report, including submitting an incomplete report as referred to in Article 9, shall be liable to administrative sanctions in the form of written warning and/or notification to the competent authority and/or publication in the national and international media.

CHAPTER VI

CONCLUDING PROVISIONS

Article 13

The provisions for imposition of administrative sanctions referred to in Article 12 shall come into force on 1 January 2010.

Article 14

The provisions of the Bank Indonesia Regulation shall be elaborated further in a Circular Letter of Bank Indonesia.

Article 15

This Bank Indonesia Regulation shall come into force on the date of its enactment.

For the public to be informed, it is ordered that this Bank Indonesia Regulation be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

Dated 19 February 2008

THE GOVERNOR OF BANK INDONESIA

BURHANUDDIN ABDULLAH

Promulgated in Jakarta

19 February 2008

THE MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 33 OF 2008

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ELUCIDATION
TO
BANK INDONESIA REGULATION
Number: 10/7/PBI/2008
CONCERNING
NON-BANK CORPORATE FOREIGN BORROWINGS

GENERAL REVIEW

Foreign Borrowings play a vital role as a source of financing in business expansion and national economic growth and as such have a major influence on the sustainability of development. Despite this, mismanagement of Foreign Borrowings may lead to excessive exchange rate fluctuation, unsustainability in the balance of payments and monetary instability. These conditions may in turn trigger economic crisis.

In view of the potential for negative impact from Corporate Foreign Borrowings on monetary stability, it is necessary for Bank Indonesia to maintain proper regulation of Corporate Foreign Borrowings to ensure that these Foreign Borrowings are managed in keeping with prudential principles. This is consistent with one of the tasks assigned to Bank Indonesia as stipulated in Act Number 23 of 1999 amended by Act Number 3 of 2004 concerning Bank Indonesia, namely to establish and implement monetary policy.

Prudent management of Corporate Foreign Borrowings enables the mitigation of various risks, such as market risk and credit risk. The prudential principles in Corporate Foreign Borrowings are implemented, among others, through implementation of risk management in the management of Corporate Foreign Borrowings and heightened transparency as stipulated in this Bank Indonesia Regulation.

ARTICLE ...

ARTICLE BY ARTICLE

Article 1

number 1

Self-explanatory

number 2

Self-explanatory

number 3

Self-explanatory

number 4

Self-explanatory

number 5

Self-explanatory

number 6

Self-explanatory

number 7

Self-explanatory

number 8

Self-explanatory

number 9

Self-explanatory

number 10

Self-explanatory

number 11

Self-explanatory

number 12

Self-explanatory

number 13

Self-explanatory

number 14 ...

number 14

Self-explanatory

number 15

Self-explanatory

number 16

Self-explanatory

number 17

Self-explanatory

Article 2

Self-explanatory

Article 3

number 1

Self-explanatory

number 2

Self-explanatory

number 3

Self-explanatory

number 4

Self-explanatory

number 5

Self-explanatory

number 6

"Other liabilities" are defined as including but not limited to subordinated loans and similar borrowings recorded as a component of capital.

Article 4

"Market risk" is defined as foreign exchange risk and interest rate risk. Management of this risk may involve, among others, calculation of the

impact ...

impact of exchange rate and interest rate movement on ability to repay liabilities and hedging capability.

"Credit risk" is defined as ability to repay all liabilities. Management of this risk may involve, among others, adjustment of debt maturity to the period of use.

"Liquidity risk" is defined as the risk of unavailability of needed funds. Management of this risk may involve, among others, assessment of the reputation of creditors or providers of funds.

In implementing risk management, Companies may make allowance for the micro and macro indicators issued by Bank Indonesia for engaging in Corporate Foreign Borrowings.

"Micro indicators" are defined as the indicators used in prudential management of Corporate Foreign Borrowings per economic sector, formulated as averages or ranges of financial ratio indices for both long and short term, including but not limited to: Liquidity Ratio, Solvability Ratio, Profitability Ratio and ratio of revenues to foreign currency payments.

"Macro indicators" are defined as the indicators used in prudential management of Corporate Foreign Borrowing exposures on a macro (national) scale, specifically from the monetary perspective, formulated as debt indicator ratios, including but not limited to private external debt to total external debt and debt to Gross Domestic Product.

Article 5

Paragraph (1)

"Rating" is defined as corporate credit rating issued by a national or international rating agency for a Company to depict the capability and good faith of that Company for payment of financial obligations under required terms and conditions.

Paragraph (2) ...

Paragraph (2)

Self-explanatory

Article 6

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 7

Paragraph (1)

The reports to be submitted on 10 April are the balance sheet for the 31 December position and the profit and loss statement for the July to December period in the previous year.

The reports to be submitted on 10 September are the balance sheet for the 30 June position and the profit and loss statement for the January to June period of that year.

Paragraph (2)

Self-explanatory

Article 8

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 9

Self-explanatory

Article 10

Self-explanatory

Article 11

Self-explanatory

Article 12 ...

Article 12

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 13

Self-explanatory

Article 14

Self-explanatory

Article 15

Self-explanatory

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 4821 OF 2008

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